

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Patrick A. Carlone,

Civil 09-204 JMR/FLN

Plaintiff,

v.

O R D E R

International Association of Heat
and Frost Insulators and Allied
Workers Local No. 34,

Defendants.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by
United States Magistrate Judge Franklin L. Noel dated August 21, 2009, all the files and
records, and no objections having been filed to said Report and Recommendation,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss [#10] is

GRANTED in part and **DENIED in part**, as follows:

1. To the extent that Defendants seek to dismiss Count III, the Motion is
GRANTED.
2. To the extent Defendants seek to dismiss Count IV, the Motion is
DENIED.
3. To the extent Defendants seek to dismiss Count V, the Motion is
GRANTED.

DATED: September 9, 2009.
at Minneapolis, Minnesota

s/James M. Rosenbaum
JUDGE JAMES M. ROSENBAUM
United States District Court